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From: [REDACTED]
Sent: Thursday, March 21, 2013 3:42:13 PM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject: RE: TEFRA Question -

You may not be characterizing the FSA correctly. If the non-partner spouse's partnership items converted due to the settlement of the other spouse, then the non-partner spouse is not entitled to consistent settlement of partnership items because the items are no longer partnership items for the requesting non-partner spouse. See Treas. Reg. 301.6224(c)-3(b)(ii)(items must be partnership items of the requesting partner). If the items did not convert under the Dubin and Calloway analysis, which has been adopted by Treas. Reg. 301.6231(a)(12)-1(c), then the non-settling spouse would be entitled to request consistent settlement of partnership items (assuming all other criteria are met).

Other than the above conversion issue, continuing marital status should not affect consistent settlement rights.